

REMARKS/ARGUMENTS

The Examiner rejects Claims 12 and 30 under 35 U.S.C. §101 as being directed to nonstatutory subject matter. The Examiner rejects Claims 1-7, 11-17, 19-25, 27, 28, 30-35, 37, and 38 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,029,195 to Herz. The Examiner also rejects Claims 8-10, 18, 26, and 36 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of an article entitled "Frustrated Fliers Say Fair Fare a Gamble," by Glaser. Furthermore, the Examiner rejects Claim 29 under 35 U.S.C. §103(a) as being unpatentable over Herz in view Glaser and further in view of Official Notice.

Although Applicants disagree with the rejection under §101, Claims 12 and 30 have been amended to recite "a system" rather than "an offer generating module." Thus, Applicants respectfully submit that Claims 12 and 30 are directed to statutory subject matter and that the rejection under §101 is overcome.

Applicants have amended independent Claims 1, 12, 20, and 30 to further distinguish the cited references and overcome the rejections under §§102(b) and 103(a). In light of the amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the claims.

Herz discloses a system for customized electronic identification of desirable objects (e.g., news articles or purchasable items) in an electronic media environment. The system generates a target profile for each target object based on, for example, the frequency that a word appears in an article relative to its overall use in all articles. The target profile is also adjusted based on the user's interest in various types of target objects. The user could explicitly indicate his or her interest in a target object, or the user's interest could be based on the user's activity. The target profile may be organized as a hierarchical tree that is used to determine which target profiles are most similar to a user's interests. The system evaluates the target profiles against the user's interests to generate a ranked list of target objects most likely to be of interest to the user.

Herz does not teach or suggest providing purchase offers based upon both point values for the purchase options and marketing criteria. The present application discloses that the marketing criteria may be *merchandizing rules* associated with a seller and/or supplier that

dictate the purchase offers that are provided to the user. For example, the merchandizing rules may affect content location, frequency, display characteristics of itineraries, purchase offers, and other types of information marketed by the seller. In addition, the present application discloses that the marketing criteria may be *marketing goals* of a seller and/or supplier, such as increasing revenue, market share, or market exposure, which could be quantifiable data values.

Herz does not teach or suggest that marketing criteria is employed to further refine the target objects. At most Herz discloses that characteristics of the content, user-provided information, and a user's behavior may be used to predict target objects that are most likely to be of interest to the user. The Examiner simply cites to portions of Herz that relate to target profiles and a user's interest profile to identify target objects that may be of interest to the user. Thus, Herz does not balance the competing demands of buyers and sellers and is specifically distinguished in the present application. Namely, Herz does not teach or suggest that marketing criteria of the seller and/or supplier is provided at all in order to dictate the purchase offers that are provided to the buyer, as the system of Herz is directed to finding matches that are of interest to the buyer.

Despite at least these distinctions between Herz and the claimed invention, Applicants have amended independent Claims 1, 12, 20, and 30 to further distinguish the cited references. In particular, Claims 12 and 20 now recite that the marketing criteria comprises at least one merchandizing rule that at least partially dictates a predetermined number of purchase offers provided to the user and/or a manner in which the purchase offers are provided to the user. In addition, Claims 20 and 30 recite that the marketing criteria comprises at least one quantifiable marketing goal of a seller and/or a supplier of the purchase offer. None of the cited references discloses using merchandizing rules or marketing goals to dictate the purchase offers provided to a user.

Therefore, the rejection of independent Claims 1, 12, 20, and 30 under 35 U.S.C. §102(b) is overcome. Since the dependent claims include each of the recitations of a respective independent claim, the rejections of the dependent claims are also overcome for at least the same reasons as described above in conjunction with independent Claims 1, 12, 20, and 30.

Although Applicants submit that the dependent claims are allowable for at least those reasons discussed above, Applicants submit that several of the dependent claims are further distinguishable from the cited references. For example, none of the cited references teaches or suggests dependent Claims 2, 21, and 31, which recite that providing one or more purchase offers comprises limiting the purchase offers from a respective supplier based upon the marketing criteria of the supplier and the seller. In addition, none of the cited references teaches or suggests Claims 3, 22, and 32, which recite that providing one or more purchase offers comprises presenting the purchase offers to the user in accordance with the marketing criteria of the supplier and the seller. None of the cited references teaches or suggests Claims 15, 23, and 33, which recite presenting the purchase offers provided by a respective supplier in a location relative to the purchase offers provided by other suppliers that is based upon the marketing criteria of the supplier and the seller. Furthermore, none of the cited references teaches or suggests Claims 16, 24, and 34, which recite presenting the purchase offers provided by a respective supplier in a format relative to the purchase offers provided by other suppliers that is based upon the marketing criteria of the supplier and the seller.

As described above, Herz does not teach or suggest using marketing criteria at all to provide purchase options to a user, and the portions of Herz cited in the Office Action rejecting Claims 2, 3, 15, 16, 21-24, and 31-34 are erroneous. Therefore, Applicants respectfully submit that at least dependent Claims 2, 3, 15, 16, 21-24, and 31-34 are further distinguishable from the cited references in addition to those reasons discussed above with respect to independent Claims 1, 12, 20, and 30.

Appl. No.: 10/635,292
Amdt. dated November 26, 2007
Reply to Office Action of June 27, 2007

CONCLUSION

In view of the amendments and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Trent A. Kirk
Registration No. 54,223

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON November 26, 2007.